



Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

Vol. 121

WASHINGTON, MONDAY, OCTOBER 6, 1975

No. 149

Senate

By Mr. RIBICOFF (for himself, Mr. BROCK, Mr. JAVITS, Mr. KENNEDY, Mr. MUSKIE, Mr. PERCY, Mr. ROTH, Mr. STAFFORD, and Mr. CHILES):

S. 2477. A bill to provide more effective public disclosure of certain lobbying activities to influence issues before the Congress and the executive branch, and for other purposes. Referred to the Committee on Government Operations.

Mr. RIBICOFF. Mr. President, today I am introducing the Lobbying Act of 1975 on behalf of myself and Senators BROCK, JAVITS, KENNEDY, MUSKIE, PERCY, ROTH, STAFFORD, and CHILES. I ask unanimous consent that a summary of the bill be inserted in the CONGRESSIONAL RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. The legislation I am introducing today is an effective, fair, and workable lobbying reform bill. Such legislation is long overdue.

Senators BROCK, JAVITS, KENNEDY, MUSKIE, PERCY, and STAFFORD have all introduced lobbying bills of their own this year. I am grateful that each one of them has chosen to be a cosponsor of this bill. They have all significantly contributed to the legislation.

Earlier this year the committee held a total of 3 days of hearings on legislation to reform the present lobbying laws. The witnesses at the hearings all agreed that reform of the present lobbying law was essential. The 1946 act is too limited in scope, too vague in its wording, and too weak in its enforcement authority. A 1970 House report described the present act as a thoroughly deficient law. A report the General Accounting Office prepared this year for me similarly emphasized the inadequacies of the present law. The report stated that in one recent reporting period 48 percent of the lobbying reports filed were incomplete, and 61 percent were received too late. Yet, the Justice Department has investigated only five complaints of violations of the law since March 1972. In the 29 years since the lobbying law was passed there has been only one successful prosecution for violation of the law. The report of the General Accounting Office concludes that—

The Department of Justice does not monitor the registration or disclosure requirements of the Act or evaluate the effectiveness or compliance with Act.

Lobbying serves a very useful role in the decisionmaking process. Without it Congress would be deprived the information and the variety of viewpoints it should have. But the ineffectiveness of the current law has cloaked the lobbying process in unnecessary secrecy. Neither the Congress nor the public have any accurate picture of the lobbyist's activities. For Congress to operate effectively and for the public to understand the legislative process, and to participate in it as effectively as possible, basic information about lobbying must be public.

The Supreme Court recognized the need for disclosure of lobbying activities in its opinion reviewing the 1946 act. In that case, entitled *United States against Harriss*, Chief Justice Warren said of lobbying that—

Full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal.

The Lobbying Act of 1975 will tell the Congress and the public what interests are making significant efforts to influence the legislative process, what issues they are attempting to influence, and how much money they have spent in the effort to do so. The bill would give a comprehensive picture, for the first time, of the lobbyist's efforts to influence an issue before Congress, including his efforts to generate grass roots support for a particular position. At the same time, the bill is carefully drafted to insure that no one will be deterred from fully participating in the public debate on any matter by unnecessarily broad or detailed lobbying laws.

Under the bill's provisions only an organization, or an individual retained by someone else to lobby for him, could be a lobbyist. The bill defines organization to include both businesses, labor unions, and public interest groups. The bill thus avoids sweeping into its coverage the individual citizen who wishes to com-

Approved For Release 2001/08/30 : CIA-RDP77M00144R000800150028-1
municate his views on any issue to Congress. Such a person would not be a lobbyist under the law no matter how often he exercises his constitutional right to petition his government for a redress of grievances.

With respect to direct efforts to influence Congress, an organization is a lobbyist under the bill's provisions only if it attempts to influence an issue before Congress by talking to a Congressman or his staff on 12 or more occasions in a 3-month period. Organizations are thus excluded if their lobbying efforts are too infrequent to have any significant effect on Congress. An additional provision provides that if the officials of an organization converse only with the Senators or Congressmen who represent them, the organization will not, just because of these contacts, become a lobbyist.

At the same time, the bill does guarantee that any organization that lobbies Congress in a sustained fashion will be a lobbyist. By basing the definition of a lobbyist on the number of contacts the organization makes with Congress, the bill provides a clear standard which will allow any organization to easily tell whether or not it is a lobbyist. The bill relies on the number of contacts to define a lobbyist, rather than the amount of money spent by the lobbyist on lobbying, because such a contacts test most accurately reflects the extent and impact of the organization's lobbying activities. Furthermore, the bill's definition of a lobbyist as one who makes 12 contacts provides a test any organization may apply without the extensive bookkeeping required by a test based on the amount of money it spends on lobbying.

An individual who is employed by an organization to lobby for it would not himself be a lobbyist, although his activities would be likely to make the organization he works for a lobbyist. An individual would be a lobbyist in his own right only if he receives money from someone else for the specific purpose of attempting to influence an issue before Congress, and communicates with the Congress on one or more occasions in an effort to influence an issue before Congress.

The bill recognizes that a lobbyist may also try to indirectly affect an issue before Congress by persuading a large number of other people to express their views to Congress. In order to judge how representative such views are of the general public, Congress must know whether the letters it receives reflect the spontaneous expression of the public's feelings, or whether they have been generated by the lobbying efforts of a special interest. Since the executive branch as well as Congress may receive such letters, the bill also covers efforts by lobbyists to mobilize public support or opposition for any action a Federal agency may take.

Such indirect lobbying efforts are covered if the solicitation reaches 500 or more members of the general public and the solicitation costs more than \$200 to prepare and distribute. Additional provisions require an organization to register as a lobbyist if it organizes a nationwide grass-roots lobbying campaign by requesting a number of its affiliates at the State and local level, or its own employees, to communicate with Congress or the executive branch.

The bill does not make members of the public who themselves communicate directly with Congress about purely executive agency matters lobbyists. Coverage of such activities raises special problems because of the extent and variety of the contacts. The committee intends to look at this matter carefully during its forthcoming hearings on lobbying legislation. In addition, Senator KENNEDY's Subcommittee on Administrative Practice and Procedure presently has under consideration S. 1289, which requires Federal agencies to keep a public record of the most important contacts between Federal officials and outside parties. This bill, which I cosponsored, may prove to be a very sensible, alternative way to assure full disclosure of which interests seek to influence important executive agency decisions.

Organizations or individuals who do engage in substantial lobbying efforts will have to file reports that will give Congress and the public an accurate picture of their lobbying activities. The reports a lobbyist will file will disclose each issue the lobbyist worked on, and the method it used to try to influence Congress.

At the same time, the bill's reporting requirements will not weigh the lobbyist down with unnecessarily extensive reporting requirements. To avoid cumulative or unnecessary filing, the bill does not require each individual who works as a full-time employee of an organization which is a lobbyist to also file as a lobbyist. A local organization that does nothing but solicit its members at the request of a national organization would not also have to file as a lobbyist, but the report filed by the national organization would have to include information about the solicitations made by its affiliates.

The exact type of information a lobbyist must file is carefully tailored to fit each particular kind of lobbying activity involved. For example, an organization will have to estimate the total amount of money spent on all its efforts to directly lobby Congress during the period. It will not have to itemize the amount of money spent in directly trying to influence any particular issue before Congress. On the other hand, an individual or an organization which lobbies on behalf of someone else is required to file more detailed financial statements about

the amount of money his client pays him for his services. Any lobbyist who engages in an indirect lobbying campaign on any issue will have to file a full report on the amount of money spent on that campaign.

The bill requires the lobbyist to list any officer, director, or paid employee who directly spoke to a Federal officer on one or more occasions in an effort to influence a particular issue before Congress and to identify the issue involved. On the other hand, it does not require the lobbyist to file an individual record of each conversation the lobbyist had with any Member of Congress or his staff.

The bill gives the enforcement authority to the General Accounting Office. The agency successfully administered the Federal Elections Campaign Act for several years and has the necessary personnel and experience to enforce this new law. The General Accounting Office will have the full investigative and administrative powers, and the range of sanctions, it needs to do an effective job. Informal procedures will be used as much as possible and court sanctions will be largely civil and injunctive in nature.

In short, the Lobbying Act of 1975 is both a strong and balanced bill. On the one hand, it guarantees the right of Congress and the public to know how lobbyists are attempting to influence the decisions of government. On the other hand, it protects the constitutional rights of every citizen to petition his government for a redress of grievances.

I plan to hold additional hearings shortly on this bill, as well as the other lobbying bills that have already been introduced.

Committee action on this much-needed legislation will follow as quickly as possible after these hearings are completed.

The summary follows:

SUMMARY OF THE LOBBYING ACT OF 1975

An individual may be a lobbyist under the bill's definition only if someone else retains him to lobby in some capacity other than as a full-time employee. An organization may be a lobbyist if it is paid to lobby on behalf of someone else, or if it engages in a substantial amount of lobbying on its own behalf.

The bill does not make any other individual or organization a lobbyist. Thus, it in no way affects the individual citizen who expresses his personal views to Congress on any matter, regardless of the extent of his activities.

Any organization or individual who is a lobbyist must register with the Comptroller General and file quarterly reports with the Comptroller General. The bill authorizes the Comptroller General to enforce the bill's provisions and establishes sanctions for any violations.

DEFINITION OF A LOBBYIST

For an "individual" to be a lobbyist he must be retained for money by someone else. Only independent contractors and similar types of individuals retained to perform a specific lobbying task are included within

CIA-RDP77M00144R000800150028-1
the definition. An individual who engages in lobbying activities as a paid employee of the organization on whose behalf he lobbies would not have to file a report as a lobbyist, although his activities would be likely to make the organization a lobbyist. In that case, his name would appear on the report as one who did lobbying for the organization. To be a lobbyist the individual must also directly communicate one or more times with Congress during any three month period about an issue before Congress. The bill terms such a contact with Congress "a lobbying communication". An individual would also be a lobbyist if he is paid to urge 500 or more other persons during the same period to communicate with Congress or an executive branch agency on any issue before it. This is termed "a lobbying solicitation".

In addition to an individual, an organization may also be a lobbyist. The bill defines "organization" broadly to include businesses, labor unions, and voluntary membership organizations.

An organization becomes a lobbyist if it engages in lobbying communications or solicitations on its own behalf or on behalf of its members in any of the following three ways:

(1) Engages orally, and on its own behalf, in a total of 12 or more lobbying communications with Congress during any 3-month period. However, communications between a local businessman on behalf of his company and the Senators and Congressmen who represent the State where the businessman lives do not count for purposes of determining whether an organization is a lobbyist. If a local businessman just communicates with his Senators or Congressman about problems affecting his company, neither the company nor the businessman would be a lobbyist regardless of the number of times he talks to his Senators or Congressman.

(2) Expend \$200 or more in any 3-month period to make solicitations urging 500 or more other persons to communicate with any member of Congress about a particular issue, or urging 500 or more persons to communicate with any executive branch official about any issue under consideration in the executive branch.

(3) Solicits 50 or more of its own employees or 12 or more other organizations with which it is affiliated to communicate with any member of Congress about a particular issue, or solicits the same number of people to communicate with any Executive branch official about any issue under consideration in any agency.

An organization can also become a lobbyist if it is retained by some other person to engage in the same lobbying activities that would make an individual who is retained for pay a lobbyist.

DEFINITION OF LOBBYING COMMUNICATIONS OR SOLICITATIONS

Since the definition of a lobbyist is largely based on the number of lobbying communications or solicitations certain individuals or organizations make, the definitions of lobbying communications and solicitations are an essential part of the bill.

A lobbying communication includes, except for certain specified exemptions, any direct communication with members of Congress or their staff, in order to influence any issue before Congress. The term "issue before Congress" covers the entire range of matters considered by Congress including bills, resolutions, nominations, hearings, or investigations.

A lobbying communication also includes any direct communication between a lobbyist and a Federal agency official where the lobbyist tries to get the Federal official to express a particular position before Congress. Similarly, it includes any direct effort to get a member of Congress to influence the decision of any matter under consideration by the executive branch.

A lobbying solicitation arises whenever a person requests other persons to write or otherwise communicate with Congress about an issue before Congress. Similarly, the term includes any effort by a person to get others to write or otherwise communicate with the executive branch about any issue before the executive branch.

Certain efforts to influence an issue before Congress or the executive branch are specifically excluded from the definition of lobbying communications or solicitations. The exclusions cover:

A communication or solicitation by an individual acting solely on his own behalf for redress of personal grievances or to express his own personal opinion.

Requests for information about the status, existence, or effect of a bill or other issue before Congress.

Communications or solicitations by a Federal officer or employee of the executive branch, or communications or solicitations by a Member, officer, or employee of Congress.

Testimony or subpoenaed information submitted to a congressional committee.

Communications or solicitations by State or local officials, by candidates for Federal, state, or local offices, or by National, State, or local political parties.

Communications or solicitations (other than advertisements) appearing on television or in newspapers or other publications distributed to the general public.

REGISTRATION AND REPORTING REQUIREMENTS

An individual or organization which meets the definition of a lobbyist must register annually with the Comptroller General.

The registration must contain basic information about the identity of the lobbyist, list any individuals whom the lobbyist expects to pay to do lobbying, and generally describe the subject matter of the types of issues before Congress or the executive branch which the lobbyist expects to seek to influence, and the means the lobbyist expects to influence such types of issues. The lobbyist must also disclose the identity of any other "organization" which financially supported his lobbying activities during the past year, and each "individual" who provided more than 5 percent of the lobbyist's funds for lobbying during the past year.

In the case of a lobbyist who is retained for money, the registration will include the identity of the person who retained him, and a description of the financial terms under which the lobbyist was retained. If the lobbyist is a voluntary membership organization, such as a trade association or a public interest group supported by its members, the registration would disclose the approximate number of persons who are members, as well as a description of procedures the organization follows in establishing its position on particular issues.

In addition to registering with the Comptroller General, a lobbyist will have to file reports every three months describing his lobbying activities. The precise information which the lobbyist must provide in the quarterly report will vary depending on the exact nature of the lobbyist's activities. For example, the bill requires less detailed fi-

nancial data from an organization which lobbies on its own behalf than from an individual who is retained by a client to lobby on a particular issue.

REPORTS OF LOBBYISTS RETAINED FOR PAY TO LOBBY DIRECTLY

A lobbyist retained by any other person to lobby for him by engaging in one or more lobbying communications must—

(1) disclose the identity of the person on whose behalf he is acting and how much money he was paid by such person for his services in connection with each issue;

(2) identify the issues he worked on for each client and the lobbyist's position on the issue;

(3) list any individuals who in turn were paid by the lobbyist to make one or more lobbying communications during the period; and

(4) provide a general description of any lobbying "solicitations" concerning an issue before Congress which were made by the lobbyist for the person who retained him and which are not otherwise reported.

REPORTS OF ORGANIZATIONS LOBBYING FOR THEMSELVES

Any organization which is a lobbyist because it engages on its own behalf in 12 or more oral lobbying communications must—

(1) identify each issue which it sought to influence by making one or more lobbying communications;

(2) disclose the identity of each officer, director, or employee of the organization who orally engaged in one or more lobbying communications, along with a description of the issues on which he worked;

(3) disclose the identity of any affiliated organizations the lobbyist solicited concerning an issue before Congress, along with a description of the particular issue involved;

(4) provide a general description of any lobbying "solicitations" concerning an issue before Congress made by the lobbyist not otherwise reported; and

(5) estimate the total expenses incurred by the organization in connection with all its lobbying activities during the 3-month period.

The lobbyist would not have to itemize the amount spent on particular issues or estimate the particular amounts spent on salaries, overhead, or the like.

REPORTS OF LOBBYISTS THAT SOLICIT

Any lobbyist that solicits 500 or more other persons, 50 or more of its employees, or 12 or more of its affiliates on a particular issue before Congress or the Executive Branch, and meets, where applicable the \$200 expenditure test must—

(1) provide a sample of any form letter, written advertisement, or other similar written material used to solicit 500 or more people; a transcript, if available, of any advertisement used to solicit orally 500 or more people; and a description of the content of other solicitations used by the lobbyist;

(2) identify each issue the lobbyist sought to influence by soliciting the requisite number of persons and the lobbyist's position on the issue;

(3) estimate the total number of persons solicited in connection with each issue, including the number solicited by written means in each state, and identify any affiliate which helped make the lobbyist solicitations, along with an estimate of the number of persons solicited by such affiliate.

(4) estimate the total expenses incurred by the lobbyist in connection with each issue it worked on during the period by soliciting

(5) if the lobbyist was retained by some other person to engage in the solicitations, the amount of money received by the lobbyist from such person in connection with each issue.

REPORTING REQUIREMENTS APPLICABLE TO ALL LOBBYISTS

Each quarterly report filed by each lobbyist would also have to include an identification of the lobbyist, and a record of any gift or loan to a Congressman or his staff exceeding \$50 in value which was paid for by the lobbying organization, or by an individual lobbyist on behalf of the person who retained him.

ENFORCEMENT

The bill authorizes a civil penalty of not more than \$10,000 for each violation of the law. Criminal violations are only authorized where any person knowingly and willfully violates the law or files fraudulent information.

The General Accounting Office will have primary responsibility for civil enforcement of the new law. The Comptroller General is authorized to investigate possible violations and to correct any violations it discovers by informal methods, by cease and desist orders issued after an administrative hearing or through civil litigation in court. The Comptroller General may also refer any apparent civil violation of law to the Department of Justice for action. If the apparent violation is criminal in nature, the Comptroller must in every circumstance refer the proceeding to the Department of Justice for prosecution.

Each lobbyist and each person who retains a lobbyist is required by the bill to maintain financial and other records on which the information filed with the Comptroller General must be based. The Comptroller General will have the authority to inspect such records when necessary.

The Comptroller General is also given authority to prepare necessary regulations, develop forms, render advisory opinions when requested, and to issue subpoenas. The Comptroller General is given responsibility for making the registrations and reports public, and preparing special preliminary reports on a lobbyist's activities upon the request of a Senator or Congressman. After each 3-month period the Comptroller General will be required to publish in the Federal Register a report based on the registrations and reports filed with it summarizing all the lobbying activities that occurred pertaining to a specific issue and all the lobbying activities of persons who share an economic, business, or other interest in common.

EXAMPLES OF WHO WOULD BE A LOBBYIST

The following are examples of which individuals and organizations would be a lobbyist under the bill's provisions:

(1) An individual citizen, concerned about the safety of children's toys, journeys to Washington and talks on her own behalf to staff assistants in the offices of 80 different Congressmen or Senators, including 20 from her own state. The citizen "is not" a lobbyist because she is simply expressing on her own behalf her personal concern about a matter.

(2) An individual who is personally concerned about an environmental issue buys with his own funds an advertisement in the newspaper urging the public to write Congress in support of a particular environmental bill. The individual "is not" a lobbyist since he is using his own money to express

his own personal view on an issue before Congress.

(3) An individual lawyer is retained by a company to obtain an amendment to a tax bill pending in committee. In connection with the services provided his client, the lawyer drafts proposed wording, and discusses the wording with the staff of the appropriate Committee. The lawyer "is" a lobbyist.

(4) Employees of a national company call Congressional committees on 20 occasions during a quarterly filing period in order to determine whether the committee has scheduled hearings on certain bills, and whether the Committee has reported certain other bills out of Committee. In addition, the company president testifies before the Committee on a particular bill. The company engages in no other communications with Congress. The company "is not" a lobbyist since the bill excludes from its coverage the specific types of communications in which the company engaged.

(5) The president of an organization who is concerned about the possible effect of a pending bill on his business travels to Washington and speaks about the bill on behalf of the organization to his two Senators and the Congressman representing the district in which his business is located. He talks a total of 15 times to his representatives or their staff assistants. Since the businessman only speaks to his own Senators and Congressmen he "is not" a lobbyist.

(6) Three separate individuals employed by an organization call congressional staff aides a total of 40 times during a quarterly filing period in an attempt to secure passage of amendments to three different bills. On a fourth issue the company instructs 15 plant managers to write their own Congressmen on the issue, but it makes no other effort to influence Congress. While none of the individuals would be a lobbyist, the organization "is" a lobbyist since together its three employees orally engaged in over 12 lobbying communications. The 15 letters sent by the plant managers do not count in determining whether the company is a lobbyist, but since the company is a lobbyist for other reasons, it would also have to report its interest in this fourth issue.

(7) A company with a special problem urges various executive branch officials on 10 different occasions to support legislation to resolve the problem. The company also talks on 10 different occasions during the same three month period with members of the appropriate congressional committees or their staff. Since the communications with the executive branch were on legislation pending in Congress, they are lobbying communications for purposes of determining whether the company is a lobbyist. Since the total of all oral lobbying communications exceed in this case 12, the company "is" a lobbyist even if it did not communicate with Congress on any other matter during the 3-month period.

(8) A national trade association seeking to gain passage of a bill before Congress sends a letter to 5,000 of the leading businessmen in the country urging them to write, or to talk personally, with their Congressmen in support of the proposal. The cost of writing, printing, and mailing the letters was \$2,000. Since this solicitation reached more than 500 persons and cost over \$200 to prepare and send, the organization "is" a lobbyist.

(9) A local historic preservation society worried about the possible destruction of

an old federal courthouse spends \$100 to prepare and distribute a flyer on the street to about 700 people urging them to write the Chairman of the appropriate Committee urging action to save the courthouse. Since the flyer cost less than \$200 to prepare and distribute, the local historic preservation society "is not" a lobbyist.

(10) A national trade association directly communicates with Congress only when it wants to know the status of certain bills, but on four occasions it writes letters to the 50 companies that are members of the trade association and urges them on each occasion to write their own Congressmen in opposition to a particular bill pending before Congress. This solicitation by a trade association of more than 12 affiliates means it "is" a lobbyist.

(11) The Washington office of a company with 10,000 employees located in five States

writes its 500 top management officials and requests them to travel to Washington to talk to their Congressmen and Senators about a bill directly affecting the company. Because the company solicited more than 50 of its own employees, it "is" a lobbyist. The individual employees who travel to Washington to see their Congressmen "are not" lobbyists.

(12) A professional association concerned about the possibility that an executive branch agency may propose a certain regulation of great importance to its members spends \$300 to distribute a solicitation urging the 500 individuals who are members of the organization to write the agency in opposition to the idea. Since the organization urged more than 500 persons to communicate with an executive branch agency about a matter before it, and spent more than \$200 to do so, the organization "is" a lobbyist.